

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

BLUE CROSS BLUE SHIELD OF
MINNESOTA,

Case No. 13-CV-0530 (PJS/SER)

Plaintiff,

ORDER GRANTING MOTION FOR
PRELIMINARY INJUNCTION

v.

SALLY LAURA HYMAN; ROBERT M.
GINSBERG; GINSBERG & WOLF, P.C.,

Defendants.

Plaintiff Blue Cross Blue Shield of Minnesota (“Blue Cross”) brings this action against defendants Sally Laura Hyman, Robert M. Ginsberg, and Ginsberg & Wolf, P.C., to recover \$29,630.75 in medical benefits paid to Hyman or on Hyman’s behalf as a result of a slip-and-fall accident that occurred on or about September 18, 2009. Under the terms of the RBC-USA Health and Welfare Benefit Plan (“the Plan”) pursuant to which Blue Cross paid that money, Hyman is obligated to refund all benefits paid by Blue Cross should she recover money from a third party in connection with the event that caused those benefits to be paid. Compl. ¶ 11 [ECF No. 1]. Blue Cross alleges that Hyman settled legal claims against the parties responsible for her injuries for approximately \$225,000, and that some or all of those settlement funds have been disbursed to defendants. *Id.* ¶¶ 12-14; Mem. in Supp. at 2 [ECF No. 13]. Blue Cross further alleges that, under the terms of the Plan, Blue Cross has a lien against \$29,630.75 of the settlement funds disbursed to defendants — a lien that attached as soon as the parties responsible for Hyman’s injury agreed to pay her \$225,000 in settlement of her claims.

On March 7, 2013, Blue Cross moved for a temporary restraining order (“TRO”) against defendants, seeking to enjoin them from disposing of any portion of the disputed settlement funds under their control. ECF No. 11. The Court granted Blue Cross’s motion for a TRO the following day. ECF No. 18. The Court’s order — as well as Blue Cross’s motion for a preliminary injunction and supporting papers — were served on defendants on the afternoon of March 11. ECF Nos. 19-22.

Blue Cross now moves for a preliminary injunction against defendants, seeking to enjoin them from disposing of the \$29,630.75 of the settlement funds that is allegedly subject to a lien of Blue Cross. The Court’s order granting Blue Cross’s motion for a TRO directed defendants to file a written response to Blue Cross’s preliminary-injunction motion by 5:00 p.m. on March 12. Defendants violated the Court’s order by failing to file any response to Blue Cross’s motion. In the same order, the Court also directed defendants to appear in person or through counsel at a hearing on Blue Cross’s motion scheduled for March 15, 2013, at 9:30 a.m. Again, defendants violated the Court’s order by failing to appear as directed.

Defendants have not formally appeared in this action or even had informal communications with the Court. Defendants have not, for example, asked for more time to respond to Blue Cross’s motion, asked that the hearing be rescheduled, or notified the Court that they opposed Blue Cross’s motion. The Court therefore deems Blue Cross’s motion to be unopposed. At the hearing, however, Blue Cross agreed to narrow its motion to seek a preliminary injunction only against Hyman (and not against the other two defendants). The Court will grant the motion as modified.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS
HEREBY ORDERED THAT:

1. Plaintiff Blue Cross Blue Shield of Minnesota's motion for a preliminary injunction [ECF No. 11] — as narrowed at the March 15, 2013 hearing — is GRANTED.
2. Defendant Sally Laura Hyman is ORDERED to immediately retain and set aside \$29,630.75 of the settlement proceeds that she received in connection with legal claims that she brought to recover for injuries suffered in an accident that occurred on or about September 18, 2009.
3. Defendant Sally Laura Hyman is ORDERED to pay the \$29,630.75 that she retains and sets aside pursuant to paragraph 2 of this order to the Clerk of the United States District Court for the District of Minnesota. Hyman must pay those funds no later than March 25, 2013. Those funds will be held in an interest-bearing account pending the outcome of this lawsuit.
4. Plaintiff Blue Cross Blue Shield of Minnesota is ORDERED to personally serve a copy of this order on defendant Sally Laura Hyman as soon as possible.
5. Plaintiff Blue Cross Blue Shield of Minnesota is ORDERED to post a bond with the Clerk of Court in the amount of \$1,000 no later than March 25, 2013.

Dated: March 15, 2013

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge